

AFFAIRS IN KANSAS.

SPEECH

OF

HON. ROBERT TOOMBS, OF GEORGIA,

DELIVERED

IN THE SENATE OF THE UNITED STATES, FEBRUARY 28, 1856.

The Senate having resumed the consideration of the motion to print ten thousand copies of the message of the President of February 18, with the accompanying documents, relative to the affairs of the Territory of Kansas—

Mr. TOOMBS said: Mr. President, as I desire to express my concurrence with the policy adopted by the President of the United States upon this question, and as it will be necessary for me to leave the city at an early day, I will avail myself of the present moment to express my views briefly upon it, without asking for any delay.

The Constitution expressly grants power to Congress to provide for calling forth the military power of the United States, in order to "execute the laws of the Union, suppress insurrections, repel invasions," and also to protect each State against "domestic violence." In 1795, Congress passed an act to carry into effect these powers.

These were necessary, yet very delicate and dangerous powers, and ought therefore to be jealously watched and closely guarded. The act of 1795 was drawn with a full appreciation of these dangers and difficulties, and cautiously guarded this extraordinary application of the military power in aid of the civil authorities and public order. In the judgment of the President, a case falling within this law has lately arisen, and he has taken the preliminary steps pointed out by it for the exercise of the powers it confers by issuing his proclamation. The power is clear if the case has arisen. The proclamation states the precise state of things contemplated by the act; it is supported by the official documents before us, and therefore stamps this action of the President with unquestionable legality, and demands for it the united support of all friends of law and order. The act of the 28th February, 1795, enacts that—

"In case of an insurrection in any State against the Government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States as may be applied for as he may judge sufficient to suppress such insurrection."

"Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution

thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, to suppress such combinations, and to cause the laws to be duly executed."

The act of 3d March, 1807, enacts—

"That in all cases of insurrection or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purpose such part of the land or naval force of the United States as shall be judged necessary; having first observed all the prerequisites of the law in that respect."

The Governor of Kansas (the Legislature not being in session) officially informs the President that the laws of that Territory are obstructed—that they are openly resisted by a large body of armed men, who have rescued a prisoner from the hands of the sheriff by force, murdered peaceable inhabitants, burnt up houses, and openly declaring a fixed purpose not to submit to the laws of the Territory; and that this organization is too powerful to be resisted by the civil authorities, or even by the military power of the Territory, which is available for that purpose. These facts, thus officially communicated to the President, are sustained by ample testimony—the testimony of the sheriff who was resisted in the execution of legal process, and that of a portion of the *posse* whom he called to his aid, together with that of other inhabitants of the Territory. These facts bring the case fully within the provisions of the acts of 1795 and 1807; and nothing more was necessary. But this is not yet the whole case: General Lane and Mr. C. Robinson—the first styling himself "chairman of the executive committee of Kansas Territory," and the latter "chairman committee of safety"—have undertaken to notify the President that "an overwhelming force was organizing on the border" of the Territory "for the avowed purpose of invading Kansas, demolishing the towns, and butchering the unoffending free State citizens."

One side claims protection from insurrection from within, the other from invasion from without; both agreeing that "the laws are obstructed, and that anarchy reigns supreme." It would be difficult to imagine a case calling more loudly for the interposition of the Federal power, or a case which would afford fewer points of criticism for its application; yet, still the President is denounced by some for usurpation, and taking sides against the Abolitionists; and by others—among them the Senator who has just taken his seat [Mr. HALE]—for not doing it sooner, and in behalf of the disturbers of the public peace. Whatever may have been the disorders in that Territory before these recent events upon which the President has acted, the Senator cannot show, and did not attempt to show, that these made any case coming within the Constitution and acts of Congress referred to, which is the sole authority upon which the President can interpose public force even to restore order. This is not a case of resistance of the laws of the United States, but of obstruction to the laws of a Territory. In the Boston riot case there was resistance to the execution of the laws of the United States. The President was officially informed of that fact, and, with a promptness and energy which did him infinite credit, he ordered the public force to aid the patriotic citizens of Boston who took up arms to maintain law, and the law was vindicated. This action was in conformity to law, and gave great satisfaction to the patriotic people of all sections of the country. The action now under consideration, being founded upon the obstruction to territorial laws, required other prerequisites. When these were complied with, the President then acted, and could not legally act before.

We are now told that at some former period Kansas was invaded by Missourians; her ballot-boxes seized, and representatives returned to her Legislature by violence and against the will of her peaceable inhabitants. If this were true, it would not affect the propriety of the present action of the President. But is it true? It is very certain that no such information has been officially communicated to the President. Governor Reeder was at the time the Governor of the Territory. It was his duty to prevent such an outrage, if it had happened, by all the civil and military power of the Territory; and if that failed, he was bound by his official oath and duty to report it to the President. He did not do so; and he is here today, indorsed by these very complainants, (the Free-Soil party of the Territory,) who have sent him here to represent them. Am I uncharitable, then, in saying that this is a fraudulent afterthought, gotten up to justify present excesses? This question has but one side; the President has interposed Federal authority at the time, and in the mode, and to the extent required by the laws and the Constitution. To have done more or less would have subjected him to the just censure of Congress and the country. Neither can the attacks on Governor Shannon in any degree aid the assailants of the President; whether he is a good or a bad Governor, whether he be saint or sinner, can in no wise affect the issue. The time for executive action provided for in the laws of the Constitution has come, and the enemies of law and order had better see to it that they do not bring themselves under its penalties. If the

Executive has erred at all in this matter, it is by embracing in his proclamation a warning against the invasion of the Territory from without, because it is by no means clear that he had authoritative evidence to act against any body of men except the persons opposing the laws of the Territory, described in Governor Shannon's demand for assistance. If he had acted alone on the call of persons without lawful authority who are acting against the constituted authorities, it would be difficult to justify such action. But I do not complain of it, because I intend, to the uttermost verge of the law, to sustain the supremacy of law in that Territory. I will maintain its peace at every cost. If traitors seek to disturb the peace of the country, I desire that it shall be no sectional contest—I do not see the end of that. I prefer that the conflict should be between the Federal Government and the lawless. I can see the end of that. The law will triumph and the evil stop. And I tell the Senator from New Hampshire that the first gun, which he so much deprecates, will fire the moment the laws of that Territory are opposed by force and trodden down by lawless violence, either from within or from without. And the reverberation of its echoes from the hills and valleys of the North or the South will but summon every true man in the Republic to the maintenance of the laws and the preservation of the Republic. He may want a sectional contest; he cannot get it. The President has wisely and patriotically announced that the contest shall not begin; that this design of frantic malcontents shall be defeated; that there shall be erected a national standard, around which to rally patriots from all parts of the Republic, against disorganizing agitators and lawless disturbers of rightful authority; that he will resist insurrection against the existing government of Kansas, which he decides to be lawful; that he will resist invaders from without, if there be any such, as alleged by his opponents; that the laws of the Territory shall be maintained; that peace shall be preserved against the dangers of sectional strife, and that law, and not disorder, shall be king in Kansas. This is the whole case. The policy of the President, I repeat, commends itself, by its wisdom, its justice, and its moderation, to patriots everywhere. They will sustain it.

The Senator from New Hampshire seems to desire strife and agitation; he therefore travels out of the record and the case before the Senate to assail citizens of Missouri. I know not whether the allegations he has made against them be true or not; but I do know that the authority upon which he relies is bad, and not to be depended upon; it is not such as would influence my opinion against any one—not the Senator himself. One of the points which he makes against a gentleman whom I well know, and whom I am happy to number among my friends—the former President of this body [Mr. ARCHISON]—is based upon a report of his speech which has found its way into the New York Times! That is the authority upon which it rests. Let it rest there. But I again repeat, that if we admit that the citizens of Missouri are guilty of all the outrages charged against them by the "free State men," it does but more perfectly vindicate the wisdom and necessity of the policy of the President. We who passed this Kansas bill, both at the North and the South,

intend to maintain its principles; we do not intend to be driven from them by clamor, nor by assaults, nor by falsehoods, nor any other invention of its faithless and impotent assailants. These principles we expound for ourselves. We intend that the actual, *bona fide* settlers of Kansas shall be protected in the full exercise of all the rights of freemen; that, unawed and uncontrolled, they shall freely, and of their own will, legislate for themselves to every extent allowed by the Constitution, while they have a territorial government; and when they shall be in a condition to come into the Union, and may desire it, that they shall come into the Union with whatever republican constitution they may prefer and adopt for themselves; that in the exercise of these rights they shall be protected against insurrection from within and invasion from without. The rights are accorded to them without any reference to the result, and will be maintained, in my opinion, by the South and the North. I stood upon this ground at the passage of the bill; I shall maintain it with fidelity and honor to the last extremity. The Senator from New Hampshire, seeming unable to comprehend the principles of the Kansas bill, attempts to show that, in the opinions of many of its supporters, the Territory would be a free State under its action. That opinion was certainly held by many of them, and is now held by many of them. Though I expressed no opinion on the subject, I thought then, and think now, that such would most probably be its future destiny; though the friends of that measure, both from the North and South, placed their support of it upon no such basis. They supported the bill without reference to the result. Many of them believed the Missouri restriction was unconstitutional; others believed it unwise and unjust; that it had been condemned by a very large majority of the people of the United States, as evidenced by their support of the acts of 1850, commonly called the compromise measures; and that, therefore, it ought to be repealed. If the Senator could show that their opinions of the result of the effects of climate, productions, and the laws of emigration were erroneous, he would not thereby progress an inch in attacking the soundness, justice, and propriety of the measure, nor in showing the least inconsistency in those who supported it. They supported it because it was right, and left the future to those who were to be affected by it. The greatest unforeseen element to defeat these expectations has been supplied by the folly and madness of that Senator's friends, who have attempted to forestall and thwart the legitimate action of these causes, by irregular and improper efforts to control them, and have thereby introduced active and energetic opposing elements in the contest.

Against all these conflicting efforts and opinions, the friends of the Constitution, justice, and equality have hitherto held, and will continue to hold, the scales of justice even and unshaken. We still tell all the joint owners of this public domain to enter and enjoy it, both in the North and the South, with property of every sort; exercise the full powers of American freemen; legislate for yourselves to any and every extent, and upon any and every subject allowed by our common Constitution; the Federal Government will protect you against all who attempt to disturb you in the exercise of these invaluable rights; and

when you have become powerful and strong enough to bear the burdens, and desire it, we will admit you into the family of sovereigns without reference to your opinions and your action upon African slavery. Decide that question for yourselves, and we will sustain your decision, because it is your right to make it. This is the policy of the Kansas bill; it wrongs no man—no section of our common country. But it is said that one of our grounds of defense of the institution of slavery is, that it was forced upon us by Old England and participated in by New England; and, therefore, we are not responsible for it; therefore, we are called upon not to imitate the example and force it upon Kansas. I will not; the bill does not; it leaves the responsibility alone and wholly with those to be affected by it. While I neither use nor approve the argument, yet its force is not weakened by the point made by the Senator. If it were true and sound, the obligation on New England would be just as great not to war upon it in Kansas as in Georgia. If it was here in their act, they would act as unjustly and as inhumanly by restricting it to limits alike destructive to the happiness and prosperity of master and slave as by exterminating the race in the States where it exists. We have never asked the Government to carry, by force or in any other way, slavery anywhere. We do not desire it. We only demand that the inhabitants of the Territories shall decide the question for themselves, without the interference of the Government or the intermeddling of those who have no right to decide it. We have again and again reiterated these principles. We have steadily acted on them. The Senator does not attempt to answer them, but seeks to mystify them and the true issues by a rambling stump speech, perhaps delivered for the fiftieth time, filled with odds and ends, "old saws and modern instances," bits and scraps from party newspapers and party resolutions reflecting on the living and the dead. These things may all answer very well for the political canvass now going on in New Hampshire, for which they were doubtless intended; but they certainly do not elucidate any of the questions under consideration in this debate, nor does his effort to show that certain persons in New Hampshire—probably his now political opponents—a dozen years since, held opinions different from those now entertained by them, contribute to that end. Ten years of argument, discussion, and patriotic consideration of these questions have changed the opinions of great numbers of able, honest, and patriotic men, including, perhaps, the very persons to whom he refers, upon the subject of the power of Congress to prohibit slavery in the Territories; and great numbers of such patriotic men have been bold and honest enough to accept the truth for error, and act upon it, and to leave their cast-off errors to the assiduous nursing of the Senator from New Hampshire.

It seems exceedingly difficult to settle even a question of historical fact with some gentlemen upon this floor. We are now brought back again by the Senator to the question of the power of Congress to prohibit slavery in the common Territories; but I do not intend to argue it; I argued it at the other end of this Capitol in 1850, when I supported what are known as the compromise measures. I argued it in the Senate two years

ago, when the Kansas and Nebraska act was passed; and I have recently argued it in another place. I am, therefore, on the record, and I do not intend now to go through the argument again; but I wish to correct some statements in regard to one or two questions of fact which have arisen in the course of this debate.

The Senator paid a just tribute to one of the most philosophic, calm, and patriotic men produced by the Revolution—Mr. Madison, a man whom I regard as the model of a statesman. He quotes him as authority in favor of the prohibition. Well, sir, Mr. Madison's opinion on this subject, under his own hand, has been before the country for several years, in which he denies this power to Congress. The letter referred to has been printed for several years; it must, therefore, have escaped the Senator's attention. I will read what he said upon this subject. I have not the book before me, but I have this opinion, quoted in a speech which I delivered here two years ago, when the Kansas and Nebraska bill was under discussion. Mr. Madison, in his letter to Mr. Monroe in 1820, says:

"On one side it naturally occurs that the right, being given from the necessity of the case, and in suspension of the great principle of self government, ought not to be extended further nor continued longer than the occasion might fairly require."

That was as to the clause in the Constitution, giving Congress power to make "all needful rules and regulations respecting the territory or other property belonging to the United States." But Mr. Madison goes further:

"The questions to be decided seem to be—

"1. Whether a territorial restriction be an assumption of illegitimate power; or,

"2. A misuse of legitimate power; and, if the latter only, whether the injury threatened to the nation from an acquiescence in the misuse, or from a frustration of it, be the greater.

"On the first point there is certainly room for difference of opinion; though, for myself, I must own that I have always leaned to the belief that the restriction was not within the true scope of the Constitution."

This is an extract from a letter written by Mr. Madison, in 1820, to Mr. Monroe, then President of the United States, when the question arose, and when, I assert, this independent power of prohibition was seriously claimed for the first time in either branch of the Congress of the United States. Therefore, while the authority of Mr. Madison is quoted in support of this power, he himself, at the very time when the power was asserted, and excited the greatest amount of popular interest, spoke for himself, and gave his clear and explicit opinion against its constitutionality.

Again: the gentleman says that General Washington was in favor of this prohibition. He invites us to go back to the fathers of the Republic. It is wholly useless, I believe, to attempt to set gentlemen right who do not intend to be set right on a question of historical fact. The act of August 7, 1789, which the Senator quoted, and says that Washington signed, says not a word upon this question of prohibition. It does not allude to it in the remotest manner. The ordinance of 1787 had been passed two years before; it had been accepted by the old Confederation. The government of that Territory was in actual existence under the old Confederation, with the right secured to Congress to appoint its officers. The new Constitution was adopted, and Congress met in 1789.

By that Constitution Congress was bound by all contracts of the old Government; and Congress passed this act:

"Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory northwest of the river Ohio, may continue to have full effect, it is requisite that certain provisions should be made so as to adapt the same to the present Constitution of the United States."

That is what the bill proposed. To give effect to the ordinance, to adapt it to the present Constitution, they say it is necessary to pass this law, and what was it?—

"Be it enacted, &c., That in all cases in which, by the said ordinance, any information is to be given or communication made by the Governor of the said Territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said Governor to give such information, and to make such communication to the President of the United States, and the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers which by the said ordinance were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal."

This section does nothing but confer the powers which the contract gave to the old Government to the new one, subject to the restrictions of the Constitution. Again: in the second section we find the following:

"SEC. 2. And be it further enacted, That in case of the death, removal, resignation, or necessary absence of the Governor of the said Territory, the Secretary thereof shall be, and is hereby, authorized and required to execute all the powers and perform all the duties of the Governor during the vacancy occasioned by the removal, resignation, or necessary absence of the said Governor.

"Approved August 7, 1789."

I have read every word of the act.

Mr. HALE. I wish to ask the Senator from Georgia whether he does not consider that the ordinance of 1787 was as effectually reenacted by that Congress as if set out in *totidem verbis* in that act?

Mr. TOOMBS. I certainly do not. It was not reenacted at all. There was no effort to reenact it. The ordinance purports on its face to be a contract between the people of Virginia, the inhabitants of the Northwest Territory, and the Government of the United States, perpetual and unalterable, except by the consent of all parties. It was accepted by all three of the parties. It was a contract executed. The first Congress found it in existence. The Constitution had affirmed the validity of contracts made under the Confederacy. The original ordinance provided for the appointment of officers by Congress. The act which the Senator quoted, and which I have read, simply made that provision conform to the Constitution of the United States. How can the first Congress be said to have adopted the ordinance of 1787 by that action? By what construction can that be contended? It is said they accepted the grant with the prohibition of slavery. They did not even do that. But that same Congress, in which were Madison and the other great men whom the Senator from New Hampshire named, did accept from North Carolina a grant of the territory which now constitutes the State of Tennessee, with a pro-slavery clause, and carried that clause in the territorial bill. Your

territorial act for Tennessee not only carried out that provision, but extended it to all territory claimed by the United States south of the Ohio river. There was a tract of territory in the southwest which the United States claimed independently of any State control or authority; and over that territory, in 1798, in the time of John Adams, a territorial government was established, and the act repeated the ordinance of 1787 in words, excluding the anti-slavery clause. The honorable Senator from New Hampshire wants the practice of our fathers. I will give it to him. I say the prohibition of slavery cannot be found on the statute-book, even impliedly, from the establishment of this Government, under the Constitution, until 1820; and I stand ready at all times to make good the assertion, and demand proof of a single statute to the contrary. Such prohibition cannot be found in the statutes of the United States. The right to prohibit the people of the different States of this Union to go into the common territories with their slave property was never asserted by the Congress of the United States from 1789 to 1820. The elder Adams of Massachusetts signed a bill establishing a territorial government over a country claimed by independent authority—the only foot of territory which the United States claimed in their own right, without grant, unfettered by the conditions of any grant; and in regard to that territory they struck out in words the sixth, or anti-slavery, section of the ordinance of 1787, and extended the residue of the ordinance to it. It is true that, upon each division of the Northwest Territory, the whole ordinance was applied to each of its parts, but that was in pursuance of the contract with the old Confederation.

In 1803, under the administration of Mr. Jefferson, we established the territorial governments of Orleans and Louisiana, and subsequently in the same region the Territories of Missouri and Arkansas. In 1819 we obtained a cession of Florida from Spain, and established a territorial government there. In all these cases there was no prohibition of slavery. No such prohibition was enacted until 1820, upon the proposition to admit Missouri as a State. The Congress of 1820 was the first that ever assumed and exercised such a power. Thirty years had then elapsed since the formation of the Constitution. Almost all the fathers of our Government had gone to their graves. Then it was that ambition, defeated hopes, blasted political prospects, brought strife and mischief into the public councils; then it was that the equitable and just policy of our fathers was abandoned; then we “sowed the wind,” and are now “reaping the whirlwind.” Then it was a former distinguished citizen of Massachusetts, though at that time a Senator from New York, Rufus King, inaugurated the policy of prohibition. It had no support, no pretense of foundation, in the practice of the fathers from 1789 to 1820. Eight territorial governments were set in operation by Congress, by the fathers of the Republic, without the assertion in any of them of this power of prohibition. When it was then proposed, those of the fathers who were living, Mr. Jefferson and Mr. Madison, and others, came forward and put their condemnation upon that assumption of unconstitutional authority.

I am very happy to observe the tone of moder-

ation expressed by the Senator from New Hampshire upon the general question. I cordially reciprocate it. If he only desires, as he asserts, that there shall be no aggression on either side, I will strike hands with him, and let the question be settled on that basis, now, finally, and forever. The country will respond to the sentiment. Let there be no legislative aggression on either side. Look through the records of the country, and show a single act, from the beginning of the Government to this hour, where the South have perpetrated any aggression on the North, and I would claim it as a privilege to strike it from the statute-book. Nor do I complain of any on the other side until 1820; but I do affirm, that the moment when you said we should be shut out from the common territories of the Union unless we abandoned our slave property, it was aggression. It is aggression to exclude fifteen States of this Union from the common territories purchased by the common blood and common treasure. We think no fair man can deny that proposition. This wrong was submitted to by the South for above thirty years, when similar questions, in the march of events, again arose in the national councils. Acquiescence was claimed as not only sanctifying the old wrong, but as a precedent for inflicting new ones. The country was aroused; the question spread from the halls of legislation to the homes of the people; and, upon a full and fair hearing, the patriotic men of the North pronounced against the usurpation, and united with us to defeat the attempted repetition of the wrong, and to bring back the legislation of the country to its ancient landmarks, by the repeal of the Missouri restriction; therefore, upon this most important and dangerous of all the forms in which the slavery question can be presented, we are now without aggression on either side. If the Senator from New Hampshire is sincere, he will stand there. The common property is open to the common enjoyment of all: let it remain so; and let us unite and firmly support those measures which will protect all alike in the peaceable enjoyment of their rights. This was not achieved by the South. She could not do it. The patriotic men of the North magnanimously struck for the right—for equality under the Constitution.

Sir, (addressing Mr. Hale,) you may denounce them for it, but you cannot make your cause the cause of the North. It is not a question of sections. Thousands of men upon both sides of Mason and Dixon's line are patriotic enough to treat it as it deserves to be treated, as a question of the Constitution, and they have done so. You have not driven that great phalanx of true-hearted national men from the public councils by denouncing them as “dough-faces.”

I regretted exceedingly to hear the Senator from New Hampshire, a few days since, say that the North had always been practically in a minority in Congress, because we of the South bought up as many northern men as we wanted! The people of the South—one third only of the white population of the United States—are thus deliberately charged by a northern Senator with ruling the Republic, and putting the North in a practical minority for fifty years by purchasing up his countrymen. Sir, I stand here to-day, in behalf of the North, to repel the accusation.

Mr. HALE. Who made it?

Mr. TOOMBS. You said it; I have it before me in your printed speech; I heard it delivered, and you are correctly reported. I deny it; it is a slander on my countrymen. Northern statesmen have sold themselves out in quantities to suit purchasers for fifty years! New Hampshire sell her honor and her interest to "southern slave-drivers!" If it had been true, it would rather become her own son to have thrown the mantle over her shame, and concealed it from all eyes, even his own, than to have become her accuser. I think the Senator may search in vain, even in the bitterest tirades of abuse and villification ever uttered by those whom he terms "border ruffians," for any language so strong, any accusation so disgraceful, as that made by himself against his own countrymen.

What proof is offered us in support of this accusation? The Senator pointed us to the annexation of Texas. "Perhaps," said he, in this connection, "that was a northern aggression." The question of the annexation of Texas was first brought before this body in a treaty made by President Tyler; it was rejected by a large majority, composed of a majority of the South, as well as the North. It was adopted as a party measure by the Democratic convention, in 1844, which nominated Mr. Polk. It was openly and fairly put before the people of the United States; everywhere discussed and commented upon; emblazoned on every Democratic banner throughout the Union, and decided by the people in favor of annexation. It was carried by a great majority in New Hampshire—I presume against the Senator's eloquence, who, if I mistake not, was turned out of his old party for opposing it. Were the people who supported this measure bought by the South? Who bought the hardy, intelligent sons of New Hampshire? What pay did they receive? Who was rich enough to buy them? Sir, I remember to have seen it related of one of the poorest of her sons, Ethan Allen, that, when it was attempted to seduce him from his fidelity to his country, he indignantly replied: "Poor as I am, the King of England is not rich enough to buy me." [Applause.] Sir, whether the story be true of him or not, I doubt not that there are thousands and tens of thousands of the incorruptible patriots of the land of Ethan Allen who would proudly have made the same reply to the same temptation. These men have not been bought, nor can they be either cajoled or intimidated by the Senator from New Hampshire. They supported the annexation of Texas because they believed it was to the public interest—that it was a measure of sound policy. It was proposed by the party with whom they acted; they approved and adopted it. It was everywhere a party, and not a sectional, issue. Nearly one half of the South opposed it, but a majority of both sections approved it. It is not true that those gallant and patriotic statesmen of New Hampshire, who supported this measure at home and here, were "bought" and bribed to support this measure, or in any way to betray their State or their section. Many of them were known and revered by friends and opponents throughout the Union. Some of them now are gathered to their fathers, fill honorable graves, and around whose tombs cluster pleasant memories, untainted by dishonor.

Woodbury, Atherton, and Norris, long known and honored by New Hampshire, have thus passed away. Who bought them? In the name of truth, of justice, of my country, and for New Hampshire, I repel the charge.

New York supported that measure. Who bought her Representatives? Who bought Pennsylvania? Who bought the men of the great West? They supported it. Who bought and who paid for Indiana, Illinois, and Michigan? They supported that measure. These wholesale, baseless, and unfounded charges will not intimidate, but they ought to arouse the men of the North to vindicate their honor, by indignantly repelling their libelers from their councils.

The northern men who support and maintain their own opinions on great constitutional questions, and have the fearless independence to follow their convictions of duty, in the elegant vocabulary of the "friends of humanity," are usually termed "dough-faces"—"dough-faces" bought up by the South to betray the North. Who bought the Nestor of the Senate, [Mr. CASS,] who with patriotic firmness maintained his constitutional opinions, and voted against restriction, amid the yells and shrieks of his Abolition detractors? He is commonly represented by this class as the chief of "dough-faces." Did the fourteen Senators from the non-slaveholding States who voted for the Kansas bill sell out themselves and their country? It is true that some of them have fallen victims to temporary causes. The Abolitionists and the dark-lantern conspiracy in some States fraternized, and succeeded in cutting some of them down. Such things are to be expected in all free countries. We cannot be wholly exempt from errors and delusions. Madness will sometimes, but only for a time, "rule the hour." We must take the good with the evil, with the firm trust that popular intelligence and patriotism will finally vindicate themselves, and come to the support of the right.

The Senator seeks every occasion to ally himself and his cause with the North; hence he artfully defends the Puritans from imputations which my friend from Tennessee [Mr. JONES] had never cast upon them. He told us the North would fight. I believe that nobody ever doubted that any portion of the people of the United States would fight on a proper occasion. Sir, if there shall ever be civil war in this country, when honest men shall set about cutting each other's throats, those who are least to be depended on in a fight will be the people who will set them at. There are courageous and honest men enough in both sections of the Union to fight. You may preach in your pulpits in favor of sending Sharpe's rifles to Kansas, and you may succeed in getting courageous men to go there to use them. Not the least misfortune resulting from it will be, that those who stir up the strife are not apt to be found even within the reach of a far-shooting Sharpe's rifle. No, sir; there is no question of courage involved. The people of both sections of the Union have illustrated their courage on too many battle-fields to be questioned. They have shown their fighting qualities shoulder to shoulder together whenever their country has called upon them; but that they may never come in contact with each other in fraternal war should be the

ardent wish and earnest desire of every true man and honest patriot.

With reference to that portion of the Senator's argument justifying the "emigrant aid societies"—whatever may be their policy, whatever may be the tendency of that policy to produce strife—if they simply aid emigrants from Massachusetts to go to Kansas, and to become citizens of that Territory, I am prepared to say that they violate no law; and they had a right to do it, and every attempt to prevent them doing so violated the law, and ought not to be sustained. But if they have sent persons there furnished with arms, with the intent to offer forcible resistance to the constituted authorities, they are guilty of the highest crime known to civil society, and are amenable to its penalties. I shall not undertake to decide upon their conduct. The facts are not before me, and I therefore pass it by.

I shall be pardoned, I trust, for not going into crimination or recrimination as to the matters in dispute between the emigrants sent out by the aid societies and the inhabitants of Missouri. It is wholly immaterial to this issue who is right and who is wrong. If wrongs have been committed, apply the law to such as come within its provisions. If the law is too weak, apply force in aid of its execution, and to any extent necessary to its execution, and no further.

I know that many gentlemen with whom I have corresponded, and from whom I have otherwise heard, in western Missouri, General Atchison among them, ask for nothing more. They simply demand that the actual settlers who go to that country shall have a fair opportunity to establish those domestic institutions which they may think proper. General Atchison took this ground in the Senate. I am very sure he stands upon it now. I shall, therefore, dismiss the anonymous, unsupported charges against him. He is ready, at all times, to answer for himself; and, I am sure, in every contingency he will maintain that lofty character which he has always sustained.

Mr. HALE. I made no charge against him. I disclaimed any such purpose. I simply read the extracts, and gave my authority for them.

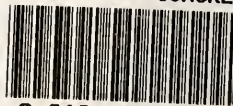
Mr. TOOMBS. If the Senator made no charge I must say that I cannot commend the good taste or fairness of retailing against an honest man rumors or charges derogatory to his character, picked up in the streets, or in irresponsible newspapers. I doubt not the Senator did that wrong unintentionally. I think, in that respect, the Senator erred—more especially as the conduct of Mr. Atchison is not called in question, and can in no wise affect the questions under consideration.

The Senator alluded to the Dorr rebellion in Rhode Island, and went back twelve or thirteen years, and presented us with the views then entertained by President Pierce on what he calls "squatter sovereignty." Many of the resolutions which he read, as having been offered by the President, I approve. A large portion of them I approve; they announced some sound constitu-

tional truths. Some of them I am not prepared to say I wholly approve. But I do approve, to the fullest extent, everything the President has done in this matter, and I cannot suffer the Senator to set off one against the other; and I see no other reason why those resolutions are brought here. But I can see no discrepancy between the President's opinions now and then. The complaint in Kansas is not against organic law, but against ordinary legislation, remediable at any time by the ballot-box. It is to enforce these laws while they exist, and to protect the free exercise at the ballot-box of the right to change, and at the instance of both parties, that the President feels it incumbent on him to prepare to bring the military in aid of the civil authority. I know there is a government in Kansas which was put there by the authority of the United States. I know there is a Governor, and Legislature, and laws, providing for the administration of justice. These are lawlessly assailed; it is his duty to protect them.

The Senator has read, with many facetious comments, a law passed by the Legislature of Kansas for the punishment of those who incite insurrection among the slaves of the Territory. I approve such a law. All Governments claim and exercise the right to prevent anybody from inciting insurrection among them, whether they have Africans among them or not. He who goes into a society, disregards its laws, and attempts to excite insurrection and subvert society, deserves not only the punishment inflicted by the law which the Senator read, but probably even that suggested by the Senator from Tennessee, [Mr. JONES.] Sir, insurrection is the highest crime against society. When a citizen goes into Kansas from Georgia or Massachusetts, and finds laws in existence passed by the lawful authority, he owes obedience to those laws until they are abrogated. Let him endeavor to change those laws if they are bad, but let him take care to do it in a legal and proper manner. That is legitimate; that is proper; but let him not attempt to incite insurrection among any class of inhabitants, white or black. We have such laws in Georgia, and I approve them; nobody but bad men and vicious intermeddlers complain of them. They exist not only in the slave States, but also in the free States. It was well remarked by a learned English author, "that he who goeth about teaching the people that they are not so well governed as they should be, will not fail to find many attentive listeners," whether the Government be good or bad. As long as you are within the law, you may change your Government; but whenever you attempt to do it by force and bloodshed, you are usually held to be an enemy of society, and must take the chances of revolution. Gentlemen had better make up their minds not to risk insurrection in Kansas; they might find it costly political capital to their active agents, and dangerous to themselves. The supremacy of the law will be upheld.

LIBRARY OF CONGRE



0 016 094 442 0